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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,610	05/01/2007	Ivo Westhovens	UDL-137	1585
36822 7590 07/22/2009 GORDON & JACOBSON, P.C. 60 LONG RIDGE ROAD SUITE 407 STAMFORD, CT 06902				
EXAMINER				
PICKETT, JOHN G				
ART UNIT		PAPER NUMBER		
3728				
MAIL DATE		DELIVERY MODE		
07/22/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/599,610

**Applicant(s)**

WESTHOVENS ET AL.

**Examiner**

J. Gregory Pickett

**Art Unit**

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 May 2007.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-33 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 03 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 10/13/06  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Inventor's Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The Preliminary Amendment filed 3 October 2006 is acknowledged. Claims 1-33 are pending in the application.

#### ***Oath/Declaration***

2. The Office is hereby *sua sponte* waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to 01 June 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56. Applicants are advised that, notwithstanding the preceding waiver, an applicant who has not disclosed information that is material to patentability as defined in 37 CFR 1.56, because it was believed that the information was not "material to the examination," should disclose such information in order to discharge the applicant's duty of disclosure as required by 37 CFR 1.56, and should file a supplemental oath or declaration acknowledging that duty of disclosure.

#### ***Information Disclosure Statement***

3. Applicant should note that the large number of references in the attached IDS(s) have been considered by the examiner in the same manner as other documents in Office search files are considered by the examiner while conducting a search of the

prior art in a proper field of search. See MPEP 609.05(b). Applicant is invited to point out any particular reference(s) in the IDS that they believe may be of particular relevance to the instant claimed invention in response to this Office Action. It is desirable to avoid the submission of long lists of documents if it can be avoided. If a long list is submitted, highlight those documents which have been specifically brought to applicant's attention and/or are known to be of most significance. See *Penn Yan Boats, Inc. v. Sea Lark Boats, Inc.*, 359 F. Supp. 948, 175 USPQ 260 (S.D. Fla. 1972), aff'd, 479 F.2d 1338, 178 USPQ 577 (5th Cir. 1973), cert. denied, 414 U.S. 874 (1974). But cf. *Molins PLC v. Textron Inc.*, 48 F.3d 1172, 33 USPQ2d 1823 (Fed. Cir. 1995).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 10-20, 22-31, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Pater et al (US 3,963,122).

1, 5, 6, and 33: Pater discloses a container comprising an enclosure 20; a securing arrangement 96 with an upright restraint 98/100 configured to be advanced and retracted (Col. 6:67 to Col. 7:5); uppermost portion (open top) and end portion 32

providing access to the container; access arrangement 156 as a movable side panel; and a plurality of spaced slide elements 50 (see Col. 5:66-68).

2: The container is of a frame construction (see Figure 1).

3, 4: The container has an open end 32 and closed end 26.

7: Side panel 156 is pinned at 160, and therefore may be pivoted.

10: Pater has openings on its bottom for receipt of fork-lift tines.

11: Pater discloses protruding upper and lower corner pieces (e.g. Figure 8), which would enable stacking.

12: Upright restraint 98/100 extends as claimed.

13, 14: Pater discloses support means 106/108 in pinned engagement, which are rotatable (e.g. for tilting arrangement (Col. 6:67 to Col. 7:5).

15, 16: Pater discloses lock arrangements 128 for defined spaced positioning.

17-19: Pater discloses contact member 100 with adjustment arrangement 106/108.

20: Pater discloses resilient contact layer 104.

22, 23: Pater discloses contact member 136, which is inflatable and therefore angularly adjustable.

24: Pater discloses height adjustable and reorientatable contact member 138.

25-27: Pater discloses slide elements 50 on opposite sides of the upright restraint (Figure 1), with friction reducing surface 62.

28: Pater discloses securing element 46.

29-31: Pater discloses a plurality of glass windscreens 22 (Col. 4:30).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8, 9, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pater et al (US 3,963,122) in view of Angeletti et al (US 7,270,236; available under 102(e)).

8, 9: Pater, as applied to claim 1 above, discloses the claimed invention except for the movable opposed sides. However Angeletti teaches movable sides 112/118 for collapsing the device, and for said purpose, it would have been obvious to one of ordinary skill in the art to provide the container of Pater with movable sides.

32: Pater-Angeletti, as applied above, discloses the claimed invention except for the plurality of containers. However the provision of a plurality of containers is a mere duplication of parts, which one of ordinary skill in the art would have found it obvious to provide in order to provide more articles to an end user. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pater et al (US 3,963,122) in view of Rowley et al (US 3,995,738).

Pater, as applied to claim 17 above, discloses the claimed invention except for the upper and lower contact members upon the contact member arrangement. However, Rowley teaches upper and lower contact members 94/96/98/100 in order to limit the surface contact on the retained device, and for said purpose, it would have been obvious to one of ordinary skill in the art to provide Pater with upper and lower contact members.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/  
Primary Examiner, Art Unit 3728